

**14 CFR Part 21 Certification Procedures for
Products and Parts:
FAA Draft Advisory Circular 21-20 Revision C
Comments**
Submitted by email to Robert.Franklin@faa.gov

**Submitted by the
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Comments on Draft Advisory Circular 21-20 Rev. C
Submitted by email to Robert.Franklin@faa.gov

January 21, 2009

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Dear Mr. Franklin:

Please accept these comments on the draft FAA Advisory Circular 21-20 Revision C, which was offered to the public for comment.

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Who is MARPA?

The Modification and Replacement Parts Association was founded to support PMA manufacturers and their customers. Aircraft parts are a vital sector of the aviation industry, and MARPA acts to represent the interests of the

manufacturers of this vital resource before the FAA and other government agencies.

MARPA is a Washington, D.C.-based, non-profit association that supports its members' business efforts by promoting excellence in production standards for PMA parts. The Association represents its members before aviation policy makers, giving them a voice in Washington D.C. to prevent unnecessary or unfair regulatory burden while at the same time working with the FAA to help improve the aviation industry's already-impressive safety record.

The only major trade group exclusively representing the PMA industry, MARPA represents a diverse group of interests all dedicated to excellence in producing aircraft parts. Board members and other individuals involved in the association have years of expertise in the PMA world, and all MARPA member companies benefit from the collective experience within the group.

The Draft Advisory Circular

The FAA has released the Draft Advisory Circular (AC) 21-20 Revision C for public comment. This AC describes methods acceptable to the Administrator for surveillance of suppliers by a FAA production approval holder (PAH).

As with any effort to create an AC, there are some areas in the draft that could be improved. MARPA welcomes the opportunity to submit comments on the Draft AC in the hope of helping to make the guidance contained within better serve both the industry and the FAA .

Conventions Used in These Comments

Where MARPA has recommended specific language changes, throughout these comments, recommended additions are underlined to highlight them, and recommended deletions from text will be ~~struck through~~ to highlight them.

The Comments

Reference to Third Party Documents

Issue: The Draft AC refers to industry standards contained within outside sources, but fails to summarize these standards within the AC itself. In section 4(b), the Draft AC states that the FAA recognizes that:

- “1. Society of Automotive Engineers (SAE) Aerospace Recommended Practice 9134 (SAE ARP 9134), Supply Chain Risk Management Guidelines (dated 3/3/2004), is an industry guideline that has been reviewed by the FAA and found acceptable to provide guidance for the identification of supplier risk factors;
2. SAE Aerospace Standard 9102 (AS9102), Aerospace First Article Inspection Requirement (revision A, dated 1/13/2004), is an industry guideline that has been reviewed by the FAA and found acceptable to provide guidance in the establishment of first article processes and procedures; and
3. SAE ARP9114, Direct Ship Guidance for Aerospace Companies (dated 9/9/2005), is an industry guideline that has been reviewed by the FAA and found acceptable to provide guidance in the establishment of direct shipment processes and procedures.”

Additionally, the Draft AC refers, in section 5(k), “Direct Ship”, to SAE ARP9114, the “Direct Ship Guide for Aerospace Companies” as an industry guideline “reviewed by the FAA and found acceptable to provide guidance in the establishment of direct shipment processes and procedures”.

There are two issues with the FAA’s citation to industry standards contained in outside sources. First, these sources are not readily and freely available, but rather, must be purchased from SAE. Because of this, the industry is not able to readily comment on the text of these documents to the extent that they are now being defined as acceptable practices for the industry. By analogy, when a rule makes reference to a third-party standard as the basis for compliance (such as a service bulletin), the Federal Register Act requires that a copy be deposited with the Government printing office for public review.

Second, and more important, these industry documents are subject to amendment and revision without FAA approval. As such, the versions that the FAA finds to be acceptable may become unavailable when they are updated, and the updated versions may include (as part of the update) guidance that is not acceptable to the FAA. Without a commitment from the publishers to continue to make available the versions referenced in the AC, in the future it may become impossible to obtain those versions.

MARPA feels it would be more beneficial for all of the FAA’s guidance on the subject of the Draft AC to be contained within the four corners of the AC.

Proposed Remedy: The remedy MARPA proposes for the issue of the Draft AC referring to outside industry guidelines not described in the Draft AC is to describe the acceptable practices within the text of the AC. This would ensure that the FAA’s guidance and requirements for supplier surveillance would all be contained in one easy to access document, and would facilitate PAHs’ ability to obtain the guidance they seek.

Production Approval Holder Definition

Issue: Section 5(h), the definition of the term “Production Approval Holder” inappropriately mixes production and design. The text of the definition states:

“**Production approval holder.** This is a holder of a PC, Approved Production Inspection System, PMA, or TSO authorization who controls the design and quality of an item (i.e., a person who has been issued a production approval by the FAA).” [emphasis added]

Control of the design is a function of the design approval and not the production approval. Therefore the word “design” should be removed from the definition.

Proposed Remedy: MARPA proposes that the definition of the term “Production Approval Holder”, as used in the Draft AC, be amended to replace the phrase “controls the design and quality of an item” with the more appropriate phrase “controls the manufacturing and quality of an item.”

Notification to the FAA

Issue: Section 7(h), “Notification to the FAA”, states, in part, that it is:

“A procedure to ensure advance notification to the FAA of any significant change in the scope of any supplier arrangements in accordance with an agreed notification procedure.”

However, the word “significant” is not defined in the draft AC. This lack of a definition makes section 7(h) of the Draft AC potentially confusing and open to a variety of interpretations as to what constitutes a “significant” change in the scope of supplier arrangements for the purposes of notifying the FAA.

Failing to clearly define “significant” could cause PAHs to be unsure when, exactly, notifying the FAA of a change in the scope of supplier arrangements is necessary.

Lack of clarity could also impose unequal burdens if certain FAA offices adopt local understandings of the term that vary from the understandings of the term in other offices.

Further, the provision in question could be interpreted to impose a burden far in excess of the regulatory notification burdens. For example, at present there is a

requirement to make available to the FAA a list of parties to whom final inspection authority is granted.¹ But there is no obligation to notify the FAA when that list is changed. A field office could decide that such a change is a significant change and impose a notification burden where no such burden exists in the regulations.

At present, the regulatory burden for notification includes a requirement to notify the FAA in writing of any quality system change that may affect the inspection, conformity, or airworthiness of the product.²

Proposed Remedy: MARPA proposes that a definition of the word “significant”, as used in the Draft AC, be included within the Draft AC. MARPA proposes that the following language be inserted in the Draft AC, as additional text in section 7(h):

A change in the scope of any supplier arrangement is considered “significant” for the purposes of this AC when:

- a) The change represents a change to the quality control system that would affect inspection of the product;
- b) The change represents a change to the quality control system that would affect conformity of the product;
- c) The change represents a change to the quality control system that would affect airworthiness of the product.

Suppliers Holding a Production Approval

Issue: Section 7(m), “Suppliers holding a production approval”, provides guidelines for PAHs that want to rely on a supplier’s production approval as a component of the PAH’s oversight program. Subsection three of this provision anticipates that the supplier would be located overseas; however there is a growing trend for suppliers to PC Holders to obtain and hold their own PMA approval.

The provision should anticipate reliance on a domestic PAH as a supplier – If it fails to do so, then it provides a mechanism by which foreign suppliers may actually be able to claim an advantage over domestic suppliers through acquisition of production approval. This is inappropriate as it provides a benefit for using foreign suppliers that could be available to domestic suppliers but that is

¹ 14 C.F.R. § 21.143(b).

² 14 C.F.R. § 21.147.

apparently not anticipated due to the guidance language. Such a benefit reflects an inappropriate regulatory preference for non-US suppliers.

Proposed Remedy: MARPA proposes that subsection (3) be amended to state:

(3) Where the supplier is located outside of the United States, a bilateral agreement for airworthiness is in effect between the United States and the country of the supplier. The bilateral agreement must include provisions for United States acceptance of the types of items or products produced under the supplier's production approval. No such bilateral is necessary for domestic suppliers, but coordination between the affected MIDOs is recommended.

PAH- Supplier Arrangement Elements

Issue: In the Draft AC's Appendix A, "PAH- Supplier Arrangement", the introductory sentence states that:

"The following list comprises the minimum elements that should be defined in the arrangement between the PAH and the supplier, if applicable."

MARPA feels that the use of the word "minimum" in this description implies that the elements are a mandatory requirement, rather than regulatory guidance.

This is a particularly important issue, because the written arrangement represents a recordkeeping burden that has not been subject to OMB approval, and therefore may not be subject to any sort of regulatory mandate.

Proposed Remedy: The word "minimum" in the first sentence of Appendix A should be changed to "typical" to reflect the advisory nature of the elements to include.

Conclusion

The foregoing represents the issues that we have identified as targets for improvement in the Draft AC 21-20C.

Thank you for affording industry this opportunity to help improve the draft guidance to make it better serve the needs of the flying public (and the industry that serves them). We appreciate the efforts of the FAA in this regard.

Your consideration of these comments is greatly appreciated.

Respectfully Submitted,

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